

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

HERLEY INDUSTRIES, INC., d/b/a/	:	
ULTRA ELECTRONICS HERLEY	:	
	:	
v.	:	No. 5:20-cv-02888
	:	
R CUBED ENGINEERING, LLC	:	

ORDER

AND NOW, this 22nd day of January, 2021, upon consideration of Defendant's partial Motion to Dismiss for Failure to State a Claim, ECF No. 18, Plaintiff's response thereto, ECF No. 25, Defendant's reply to that response, ECF No. 26, and for the reasons set forth in the Court's Opinion issued this date, **IT IS HEREBY ORDERED THAT:**

1. Defendant's motion, ECF No. 18, is **GRANTED in part** and **DENIED in part** as follows:

- A. The following claims are **DISMISSED with prejudice**:
 - a. Preliminary Injunctive Relief – Count I;
 - b. Permanent Injunctive Relief – Count II; and
 - c. Conversion of Monies under Purchase Order 5 – Count VIII.
- B. The following claims are **DISMISSED without prejudice**:
 - a. Violation of the Defend Trade Secrets Act – Count III
 - b. Violation of Pennsylvania Uniform Trade Secrets Act – Count IV
 - c. Conversion of Intellectual Property – Count V

C. The request to dismiss the following claim is **DENIED**:¹

a. Breach of Contract – Teaming Agreement – Count VI

2. **Within twenty days of the date of this Order**, Plaintiff may, consistent with the Court's Opinion, file an amended complaint as to those claims dismissed without prejudice.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge

¹ This claim, as well as the claims for breach of Purchase Order 5, Count VII, and Unjust Enrichment, Count IX, which R3E did not move to dismiss, may proceed.